Yukon Government Position

REGULATION OF PLACER MINING

Yukon

Yukon
Office of the Government Leader
P.O. Box 2703, Whitehorse, Yukon Y1A 2C6

September 13, 1983.

Dear Mrs. Christensen:

I enclose herewith a copy of the Yukon Government's intervention before the Yukon Placer Mining Guidelines Public Review Committee. As we have indicated in the document, the Yukon Government is presenting its position on each of the important issues which this inquiry should be setting out to address, rather than relying solely on a response to the proposed guidelines and their support documents.

Having regard for the calibre of the individuals who comprise your Review Committee, I am confident that you will be able to provide an objective evaluation of the proposed guidelines and advise Federal Ministers accordingly.

Yours sincerely,

C. W. Pearson.

Mrs. I.J. Christensen,
Chairman,
Yukon Placer Mining Gui ies
Public Review Committ
208B Main Street,
Whitehorse, Y.T.,
Y1A 2A9.

Encl.

REGULATION OF PLACER MINING

YUKON GOVERNMENT POSITION

Prepared jointly by
Department of Economic Development
and
Department of Renewable Resources

August 1983

CONTENTS

	Page
EXECUTIVE SUMMARY	(ii)
Introduction	1
PART ONE - ECONOMIC DEVELOPMENT CONTRIBUTION	
Importance of Placer Mining to Yukon's Economy	3
Mandate of Yukon Territory Water Board	8
Membership of Yukon Territory Water Board	12
Amendment of Northern Inland Waters Act and Regulations	13
Conditions of Water Authorizations ("Guidelines")	16
Fisheries Classification Rationale	16
Opportunity to Challenge Classification	18
Leave Strips	19
Phase-out of "Designated Creeks"	20
The Proposed Effluent Standards	20
Provision of Fish Passage	21
Compliance Schedule	22
PART TWO - RENEWABLE RESOURCES CONTRIBUTION	
A Perspective on Fisheries Management in Yukon	23
Multiple Resource Uses	26
Integrated Resource Planning and Management in Yukon	28
Establishment of Comprehensive Data-base	34
One-window Approach to Administration of Placer Mining	37

EXECUTIVE SUMMARY

Rather than rely solely on a response to the guidelines and their support documents, the Yukon Government is presenting its position on the broad issues that this inquiry is setting out to address. These issues go beyond the problem-specific approach addressed through the guidelines, and concern all aspects relating to the regulation of the placer mining industry in Yukon.

The Yukon Government believes that a reconciliation can and must be reached between renewable and non-renewable resource interests that appear to be set against one another in the concern over placer mining regulation. Both placer mining and fish are important to Yukon residents and visitors; both resources contribute to the social, cultural and economic well-being of Yukoners. The position of the Yukon Government is that there must be a balanced approach to the management of renewable and non-renewable resources, and that such a balance reflects the views of a majority of Yukoners who are not prepared to take an extreme position with either resource benefitting at the expense of the other.

Choices have to be made among different resource values, and because of a general lack of data we cannot directly compare placer mining and renewable resource values, although we can compare to some extent the social, cultural and economic benefits that those resources provide for the people of Yukon.

The federal government has alluded to the introduction of "integrated resource management" as an objective to be attained through an ongoing process of resource evaluation (both renewable and non-renewable resources). This principle is acceptable if gold is treated as a competing resource. Such a management scheme should be based upon a priorization of resource values for each particular location according to the respective economic and social values of the different resources present, and appropriate tradeoffs made. Such a tradeoff naturally entails a decision as to which particular resource shall be given priority, and an appropriate mechanism for making those decisions must be in place. In the case of competing resource values relating to the

use of water then the appropriate body to make the decisions is the Yukon Territory Water Board.

DIAND appears to be in the process of attempting to amend the Northern Inland Waters Act in such a way as to transfer some of the Water Board's powers and duties to a public servant known as the "Controller", who would have sole discretionary powers in determining the conditions to be applied to hundreds of "Authorizations" each year. This action is opposed by the Yukon Government. Instead this government advocates the following amendments to the Act and Regulations:

(1) To clarify the mandate and membership of the Yukon Territory Water Board by confirming its quasi-judicial status, by conferring upon it the sole responsibility for making decisions regarding the conditions of water use, and by eliminating departmental employees.

(2) To legitimize the responsibility of the Water Board to authorize the use of water without a licence, to make the Controller an employee of the Board, and to spell out the procedure to be followed by the Board and Controller in issuing authorizations;

(3) To specify that small placer operations may be authorized to use water without a licence;

(4) To prescribe time-limits for each step of the process involved in applying for licences and authorizations;

(5) Regulations prescribing water quality standards for downstream receiving waters should be drawn up, as provided for in the Act, thereby eliminating the discretionary powers currently enjoyed by public servants to set standards arbitrarily.

The Yukon Government contends that the conditions which the federal government proposes to apply to water authorizations, as outlined in the proposed "Guidelines", are much too onerous since they would arbitrarily make many operations uneconomic. The Fisheries Classification Rationale is unacceptable because it is based upon purely biological rationale, without any reference to the social and economic importance of the fish habitat. The opportunity for operators to challenge the classification by carrying out detailed resource inventories and environmental studies is regarded as unreasonable because it shifts the onus for providing the base-line data required for resource management from the responsible government agencies to the operators. The requirement for leave strips

and the prohibition on the use of equipment within the wetted perimeter of streams are also considered unreasonable conditions because they would preclude mining on many properties, especially those in narrow valleys and on meandering streams. The phase-out of "designated creeks" is considered inappropriate since it would require today's operators cleaning up after generations of past activity and would destroy a part of Yukon's cultural heritage which is vital for the tourism industry. The proposed uniform effluent standards are regarded as unreasonable because they cannot be scientifically substantiated and are attainable only at extreme cost to the placer miners. Provision of fish passage is considered an unreasonable requirement in most cases because the cost of such a facility is outrageously high in relation to the value of the fish and fish habitat in the stream. The proposed compliance schedule is also considered too onerous since it focuses more on the arbitrary requirements of government agencies rather than on the economic realities of placer mining.

The Yukon Government strongly supports positive fisheries management measures to maintain and improve fish stocks for the benefit of recreational, commercial and native fishermen in Yukon. The Yukon Department of Renewable Resources will cooperate with the Department of Fisheries and Oceans in using the resources of both governments to maintain and improve the management of the fishery resource in Yukon.

The Yukon Government believes that the commitments already made by both the federal and territorial governments towards an enhanced level of natural resource planning for Yukon will provide a better solution to the placer mining/renewable resource issue than the more narrow approach utilized in the development of these proposed "Guidelines". A new resource planning agreement will accommodate the interests of all Yukoners and incorporate the opportunities for resource planning and use that will accompany a comprehensive native land claim settlement.

Integrated resource planning as proposed by the federal agencies in the guidelines, and which has been agreed to in principle by the federal and Yukon governments, should form the basis for decision-making regarding resource allocation, management and use in Yukon. The problems currently being addressed through the these proposed guidelines should be addressed through a comprehensive land, water and resource use

planning process, with an emphasis on future opportunities and not legacy problems.

In order to achieve the multiple resource management concept as the approach to the regulation of placer mining it is essential to consider from the outset wildlife, vegetation, downstream users and compatibility with present or planned water use rather than concentrate solely on fisheries, as the proposed guidelines have done. An essential element of sound resource planning and management is the establishment of a good data-base by the the government agencies responsible for overall resource administration. In the absence of such data the introduction of these guidelines is therefore premature.

There should be a one-window approach to the regulation of placer mining, with a single arm of government responsible for the administration and inspection of of all aspects of the industry, and incorporating all the resource planning and management concerns of both federal and territorial governments.

INTRODUCTION

Because of repeated complaints from the placer mining industry that officials in Northern Affairs, the Environmental Protection Service and Fisheries were attempting to implement a much more stringent regulatory regime, in May 1982 the Yukon Government proposed a public inquiry to conduct a comprehensive review of the placer mining industry. The Ministers of Northern Affairs, Mines, Environment and Fisheries were each invited to nominate officials to participate. Each replied to the effect that they would not participate, although they would authorize their officials to provide whatever information was required. It was felt that without active federal participation the Yukon Government's inquiry would be far from complete, and so the inquiry was subsequently shelved.

In the fall of 1982 John Munro announced that he would be holding public hearings into the proposed placer mining "guidelines". However, it should be noted that there is a fundamental difference between the the inquiry proposed by the Yukon Government and the federal government's review process we are presently engaged in. The Yukon Government's concept of an inquiry was much broader in scope, in as much as we wanted to examine all aspects of the placer mining industry in order to determine how the industry might best be regulated. In our view the focus of the Yukon Placer Mining Guidelines Public Review Committee, as outlined in the Committee's terms of reference, is much too narrow. Accordingly, in our presentation we have returned to our original concept. We will be impressing upon this Committee, and upon the federal government, the importance of the placer mining industry in Yukon.

Rather than rely solely on a response to the guidelines and their support documents, the Yukon Government is presenting its position on the broad issues that this inquiry is setting out to address. These issues go beyond the problem-specific approach addressed through the guidelines, and concern all aspects relating to the regulation of the placer mining industry in Yukon. The first part of our intervention, prepared by the Department of Economic Development, focuses on the historical importance of placer mining in Yukon and on the present importance of placer mining to Yukon's economy, the mandate and

membership of the Yukon Territory Water Board, the functions of the Water Board and the Controller in the regulation of water use, proposed amendments to the Northern Inland Waters Act and Regulations, and criticisms of the conditions to be applied to water authorizations as contained in the proposed "Guidelines". The second part of the intervention, prepared by the Department of Renewable Resources, provides the Yukon Government's perspective on the priorities of fisheries management in Yukon, the concepts of multiple resource use and integrated resource planning and management, the establishment of a comprehensive data-base as a foundation for resource planning and management, and the establishment of a "one-window approach" to the administration of the placer mining industry.

PART ONE - ECONOMIC DEVELOPMENT CONTRIBUTION

IMPORTANCE OF PLACER MINING TO YUKON'S ECONOMY

Position:

THE YUKON GOVERNMENT RECOGNIZES THAT THE PLACER GOLD MINING INDUSTRY HAS PLAYED, AND WILL CONTINUE TO PLAY, A FUNDAMENTAL AND IMPORTANT ROLE IN THE POLITICAL, ECONOMIC AND SOCIAL DEVELOPMENT OF YUKON. THEREFORE IT IS THE POLICY OF THIS GOVERNMENT TO PROTECT AND SUSTAIN THE VIABILITY OF THE INDUSTRY AND TO ENCOURAGE ITS DEVELOPMENT.

Discussion:

Prospecting for placer gold deposits in Yukon commenced shortly after the first reported discovery in 1850. The first Klondike Gold Rush took place at a time of economic recession when the demand for gold was very strong, and the Yukon economy experienced its first "boom". This activity was responsible for the creation of Yukon Territory, with a wholly elected Council, as early as 1908. Placer gold mining remained the main-stay of Yukon's economy from 1896 up until the development of silver mines in the Keno Hill area in the early 1920's. The best year was 1900, with total production valued at $22 million (about $440 million in 1983 dollars).

The richest deposits were mined out very quickly with relatively primitive mining methods, after which many of the the hundreds of small individual property interests became consolidated into a smaller number of larger concerns. Following the introduction of dredges and other large-scale mining methods it became economically feasible to mine many of the lower-grade deposits, and gold production remained fairly constant at $4 to $5 million per year until about 1917, after which production gradually declined to a low of half a million dollars in 1926.

On January 31, 1934 the U.S. Government raised the price of gold from $20.67 to $35 per ounce; this and the effects of the Great Depression resulted in renewed interest in the gold-fields and created a minor boom. Apart from the war years 1943 to 1945 (when most miners joined the war effort) production remained fairly constant at $2 to $3 million per year from 1939 until 1963, a long period of relative stability

during which placer mining again played an important and significant role in Yukon's economy. During the 1960's steadily increasing costs of production could not be offset with the price of gold fixed, and production declined once more. Yukon Consolidated Gold Corporation shut down its last dredges in 1966, and placer mining activity rapidly declined to its lowest level since before the Gold Rush.

In 1971 the U.S. Government abandoned the gold standard the price of gold was allowed to float. Almost immediately the free market price underwent a dramatic rise, peaking at about $185 U.S. in December 1974, and this caused some renewed interest in placer mining in Yukon. The price subsequently declined to about $110 U.S. in mid-1976. A second, even more dramatic rise started late in 1976, and the price reached a peak of $850 U.S. in January 1980. The effect of the price-rise was a second "gold rush" in Yukon, and from 1978 on the economic impact of this new Bonanza has been almost as great as the earlier one.

The following table gives some statistics on the placer industry over the last five years:

YEAR	OPERATIONS	EMPLOYEES	RECORDED GOLD PRODUCTION	
	(#)	(#)	(Fine Tr. oz.)	(Million C$)
1978	78	335	20,630	4.7
1979	118	489	28,080	11.0
1980	197	788	58,576	41.9
1981	223	781	79,733	43.9
1982	215	650	59,234	27.8

Source: Yukon River Basin Study Project Report, Placer No. 1.

The adage "gold is where you find it" dictates that mining occurs where the minerals are found, not where environmental conditions are favourable. The geology, terrain, climate, geography and hydrology of Yukon impose severe limitations on mining practices. The short summers and long, cold winters dictate that placer mining be largely a seasonal occupation, consequently both the miner and the flora and fauna strive to take advantage of the favourable conditions at the same time.

The gold placer mining industry is extremely diverse, ranging from one individual operating a simple sluicebox to giant corporations with large-scale operations involving multiple pieces of expensive equipment and sophisticated treatment systems. However, in 1982 75% of the

operations had three employees or less, and only 18 operations (eight percent of the total) had six employees or more. Only about half of all the operations employ enough workers to require registration with the Workers' Compensation Board. Thus it is apparent that the industry is dominated by small, family-run concerns.

The gold placer mining industry is of fundamental importance to Yukon, both for historical reasons and because of the employment benefits and significant effect on the service and transportation sectors of the Yukon economy. Therefore the Yukon government is anxious to protect the viability of the industry and to encourage its development. At the same time fisheries, particularly sport and food fisheries, are important to Yukoners. At least half of the Yukon population takes part in the sport fishery, while visiting anglers make a valuable contribution to the tourist economy. The subsistence food fishery is an important part of the culture of Yukon native people, and a limited commercial fishery provides local seasonal employment benefits. Thus both placer mining and fish are important to the economic, social and cultural interests of Yukoners.

The placer mining industry provides very significant economic and social benefits to Yukon, both in terms of employment and by providing business for local companies. These benefits have not been satisfactorily addressed in the Socio-economic Impact Analysis or Benefit/Cost Analysis prepared for the federal government in connection with the proposed guidelines.

Placer mining operations purchase most of their equipment through local dealers, purchase a great deal of fuel through local agents, and buy most of their groceries and other supplies locally. It has been estimated that in 1980 alone the 197 producing operations made total direct expenditures for capital purchases, operations and maintenance of over $70 million (Canadian) within Yukon. The Economic Research and Planning Branch has estimated that in 1981 placer operations provided about 340 person-years of direct employment, or about 5.6% of all private-sector employment in Yukon that year. It is estimated that probably about half of all the individuals employed by the industry are Yukon residents who spend their incomes locally and pay their taxes in Yukon. The industry generates government employment in regulating the

industry and in maintaining roads and highways used by placer miners, and employment in service, transportation and other businesses who service the industry. The industry is also responsible for a good deal of the tourist traffic that comes to Yukon each year, with resulting impacts on the hotel and restaurant trade and so on. It is conservatively estimated that the industry has an employment multiplier of about 1.5 , i.e. the industry generated indirect and induced employment of about 200 additional person-years elsewhere in the economy in 1981. We have estimated that the placer mining industry now has a total value to the Yukon economy roughly equivalent to that of the tourism industry.

Recent indications are that an early return to a gold standard is unlikely, hence the generally upward trend in the gold price is expected to resume now the economy is showing positive signs of recovery. Consequently it must be assumed that placer gold mining will continue to play a very important and significant role in Yukon's economy in the future. Hence it is important that the health of the industry not be threatened by an overly-protective regulatory regime with unnecessarily stringent measures aimed at environmental conservation.

During the last ten years or so public concern for environmental protection has increased, and consequently mining practices of long-standing use are being challenged. The general consensus at present is that all industrial and human activity must proceed with due regard for the environment. It is important to realize that economic development does not have to take place at the expense of environmental protection.

It is the position of the Yukon Government that there must be a balanced approach to the management of renewable resources and the development of non-renewable resources. Such a balance is necessary in order to ensure a rational approach to renewable resource use, environmental conservation and economic development, all of which are clearly important. Implicit in this balance is the need to accept the economic and technical realities of both renewable and non-renewable resources, and to make conscious choices about their values, both today and for the future. Some conflict will be inevitable, but it is necessary to strive for a balance between short and long term values, and among economic, cultural and social values.

The federal government claims to be encouraging a trend towards more efficient "mineral management", by which they presumably mean more regulation of the mining industry, and more effective environmental conservation. Thus they clearly propose to resolve the conflict between placer mining and fisheries squarely in the favour of the fisheries, without due regard for the interests of Yukoners in general and the placer miners in particular, i.e. the federal government is not presently taking a balanced approach but is proposing to give environmental conservation priority over economic development. It should be possible to forego some fish habitat and renewable resource use in the short run in order to permit economically sound mining, and to concentrate on the progressive rehabilitation of fish and wildlife habitat after the mining values have been realized.

MANDATE OF YUKON TERRITORY WATER BOARD

Position:

THE WATER BOARD'S MANDATE MUST BE CLARIFIED AND STRENGTHENED TO ALLOW IT TO PERFORM THE FUNCTION ORIGINALLY PRESCRIBED FOR IT, THAT OF MAKING IMPARTIAL DECISIONS REGARDING THE CONDITIONS OF WATER LICENCES. THIS MANDATE SHOULD BE QUITE DISTINCT FROM THE RESOURCE PLANNING, MANAGEMENT, INSPECTION AND ENFORCEMENT FUNCTIONS OF GOVERNMENT DEPARTMENTS.

Discussion

The "objects" of the Water Board are very loosely defined in the Northern Inland Waters Act as "providing for the conservation, development and utilization of the water resources of Yukon in a manner that will provide the optimum benefit therefrom for all Canadians and for the residents of Yukon in particular". However, the Act is very specific when it comes to defining the actual function that the Board is supposed to perform. This is the issuing of water licences and deciding the conditions that should be applied to those licences. When the Water Board was originally devised and set up by DIAND it was intended to be purely a licensing authority. This mandate was defined by A. Digby Hunt, then Assistant Deputy Minister, Northern Affairs, in a letter to the Water Board's first Chairman, Lionel V. Brandon on May 15, 1972:

> "As we begin to set the stage for operating the Water Board, I feel it is important to establish some general strategies and policies. I would ask you to pass along the following guidelines to your Board members.
>
> "The Minister's letter of appointment to members emphasized that the Board is a water licensing authority. I would not want anyone to get the impression that the Board is a management agency responsible for long-range water planning.....
>
> "These are general guidelines, but ones which I feel you must adhere to at the present stage of operation of the Water Board."

However, Brandon had considerable experience in the field of resource management and appears to have been committed to the task of making the Board a management-oriented agency, as opposed to a narrower licensing and review agency. In his reply to Hunt Brandon gave his reasons for a broader interpretation of the Board's function:

> "I suggest to you that the second paragraph of your letter places too narrow an interpretation on the functions of the Board and I am sure that when you look into this you will agree that management does involve planning..... Parliament ..... in Section 18 has given the Board very wide powers as to how to manage its affairs and that of the staff and advisors provided to it by the Minister."

It is important to distinguish between the function of the Water Board and that of the Water Resources Section of DIAND, a distinction which has become somewhat blurred in recent years. Recently it has become apparent that the Water Board has attempted to assume the role of a resource management agency, while the Water Resources Section has been attempting to set arbitrary conditions for water use.

The result of the court case brought against the Water Board by the Public Interest Advocacy Group on behalf of the Yukon Conservation Society has made it clear that the Board is a quasi-judiciary body whose responsibility is to make impartial decisions regarding the terms of water licences. It is difficult to understand how the Water Board can be at one and the same time both a quasi-judiciary agency responsible for making decisions and a management agency responsible for enforcing those decisions. An analogy can be drawn with the system of criminal law enforcement in effect in Canada, with a judicial system responsible for dispensing justice (the courts) and an enforcement agency responsible for enforcing laws (the Police). Clearly the Water Board is not a resource management agency; that agency in this case is the Water Resources Section of Northern Affairs. By similar reasoning the Controller of Water Rights should not be at one and the same time setting conditions of water authorizations and be responsible for regulation and enforcement of licences and authorizations.

The dilemma currently faced by the Water Board was well expressed in a letter to Yukon Government Leader Chris Pearson on July 21, 1980, when the Chairman John D. Scott wrote:

> "I find that there are some serious conflicts of interest, especially between the mining industry and the Department of Fisheries.....
>
> "Naturally the Board must give serious consideration to the opinions of the Fisheries Department, but on the other hand, there are bound to be occasions when we feel it best to rule contrary to their interests."

The Board's capacity to deal objectively and even-handedly with competing governmental interests is restricted when representatives of some of these interests are also Board members. The Board's effectiveness in the face of these interests is also impaired by provisions such as Section 3 of the Northern Inland Waters Act, which has the effect of subordinating the Act, its Regulations and the Board's licensing power to other federal legislation and regulations. In the view of the Yukon Government the nature and extent of this subordination should be reconsidered. The position of the Yukon government is that the Water Board should be vested with the authority of determining whether or not the interests of the Department of Fisheries are fair and reasonable.

In the Introduction to the proposed Guidelines the federal government has alluded to the introduction of "integrated resource management" as an objective to be attained through an ongoing process of resource evaluation (both renewable and non-renewable resources). This principle is only acceptable if gold is treated as a competing resource. Such a management scheme should be based upon a priorization of resource values for each particular location according to the respective economic and social values of the different resources present, and appropriate tradeoffs made. Such a tradeoff naturally entails a decision as to which particular resource shall be given priority, and an appropriate mechanism for making those decisions must be in place. In the case of competing resource values relating to the use of water then the appropriate body to make the decisions is the Yukon Territory Water Board.

It has been suggested that the new guidelines will be used as a "document of Ministerial policy to the Controller in his issuance of authorizations and the Water Board in the issuance of licences to the placer mining industry". Thus three federal government departments, DIAND, DOE and DFO, are seeking jointly to interfere with the powers and duties of the Water Board. The conditions to be attached to water licences and authorizations should be determined by the Board as a result of evidence presented at a public hearing, not as a result of any guidelines drawn up by federal government departments. Naturally government departments will have the opportunity to present evidence and make recommendations to the Board at public hearings, in exactly the

same way as government lawyers present evidence and make recommendations on legal matters in a court of law.

In setting the conditions of authorizations the Controller must be responsible to the Water Board, and the Board and the Controller must be totally separated from all government departments and provided with the necessary budget and staff to enable them to carry out their duties effectively.

MEMBERSHIP OF YUKON TERRITORY WATER BOARD

Position

THOSE FEDERAL GOVERNMENT DEPARTMENTS DESIGNATED BY THE MINISTER OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT FOR NOMINATING MEMBERS TO THE WATER BOARD MUST BE REQUIRED TO NOMINATE YUKONERS OUTSIDE THE PUBLIC SERVICE. THOSE BOARD MEMBERS APPOINTED FROM WITHIN GOVERNMENT DEPARTMENTS MUST BE REPLACED BY YUKONERS.

Discussion

Those government departments presently designated by the Minister (Departments of Indian Affairs and Northern Development, Environment and National Health and Welfare) have usually chosen to nominate officials from among their own staff to fill these Water Board positions. It has been suggested that these individuals are or might be placed in a situation where their role as impartial adjudicators in the setting of licence conditions might conflict with their role as managers responsible for carrying out the resource management objectives of their respective government departments. It is apparent that these individuals are supposed to act as independent experts, not as spokesmen for their departments. These individuals themselves now appear to recognize that such a conflict exists, since recently at least one of them has chosen to disqualify himself from sitting on the Board for those hearings at which other representatives of his department were presenting interventions. These departments appear to have been taking advantage of their seats on the Board by attempting to sway the Board into implementing their own resource management objectives during the setting of licence conditions. It is unlikely that this was envisaged by DIAND when the Water Boards were originally set up.

AMENDMENT OF NORTHERN INLAND WATERS ACT AND REGULATIONS

Position

DIAND APPEARS TO BE IN THE PROCESS OF ATTEMPTING TO AMEND THE NORTHERN INLAND WATERS ACT IN SUCH A WAY AS TO TRANSFER SOME OF THE WATER BOARD'S POWERS AND DUTIES TO A PUBLIC SERVANT KNOWN AS THE "CONTROLLER", WHO WOULD HAVE SOLE DISCRETIONARY POWERS IN DETERMINING THE CONDITIONS TO BE APPLIED TO HUNDREDS OF "AUTHORIZATIONS" EACH YEAR. THIS ACTION IS OPPOSED BY THE YUKON GOVERNMENT. INSTEAD THIS GOVERNMENT ADVOCATES THE FOLLOWING AMENDMENTS TO THE ACT AND REGULATIONS:

(1) TO CLARIFY THE MANDATE AND MEMBERSHIP OF THE WATER BOARD BY CONFIRMING ITS QUASI-JUDICIAL STATUS, BY CONFERRING UPON IT THE SOLE RESPONSIBILITY FOR MAKING DECISIONS REGARDING THE CONDITIONS OF WATER USE, AND BY ELIMINATING DEPARTMENTAL EMPLOYEES;

(2) TO LEGITIMIZE THE RESPONSIBILITY OF THE WATER BOARD TO AUTHORIZE THE USE OF WATER WITHOUT A LICENCE, TO MAKE THE CONTROLLER AN EMPLOYEE OF THE BOARD, AND TO SPELL OUT THE PROCEDURE TO BE FOLLOWED BY THE BOARD AND CONTROLLER IN ISSUING AUTHORIZATIONS;

(3) TO SPECIFY THAT SMALL PLACER OPERATIONS MAY BE AUTHORIZED TO USE WATER WITHOUT A LICENCE;

(4) TO PRESCRIBE TIME-LIMITS FOR EACH STEP OF THE PROCESS INVOLVED IN APPLYING FOR LICENCES AND AUTHORIZATIONS;

(5) REGULATIONS PRESCRIBING WATER QUALITY STANDARDS FOR DOWNSTREAM RECEIVING WATERS SHOULD BE DRAWN UP, AS PROVIDED FOR IN THE ACT, THEREBY ELIMINATING THE DISCRETIONARY POWERS CURRENTLY ENJOYED BY PUBLIC SERVANTS TO SET STANDARDS ARBITRARILY.

Discussion

(1) The wording of the Act should be improved to clarify the mandate and membership of the Water Boards, as outlined in the preceding sections;

(2) These proposed guidelines are purportedly issued under the authority of the Northern Inland Waters Act and Section 11 of the Northern Inland Waters Regulations. In fact no such authority exists.

At present the responsibility of the Controller in issuing authorizations is prescribed in the Northern Inland Waters Regulations and not in the Act itself, and it has been suggested that since the duties of the Controller are not spelled out in legislation he is acting outside the law. Thus these duties need to be spelled out in the Act. This solution requires the acceptance of the procedure whereby authorization to use water without a licence can be given without a public hearing. An alternative solution would be having the Board hold public hearings for numerous like applications.

(3) It has been alleged by the KPMA and by many individual placer miners that the Controller is presently imposing arbitrary standards and that there are inconsistencies in the conditions being applied to water authorizations. In other words, they charge that the present Guidelines are not being fairly and consistently implemented. Efforts by a consultant working on behalf of the KPMA to substantiate these allegations were thwarted by officials in Northern Affairs, who refused to allow access to water authorizations which are public documents but which at that time were contained within confidential department files. In order to ensure fairness and consistency the procedure to be followed by the Controller in issuing authorizations should be standardized and set out in the Regulations, and all water authorizations must be made readily available for public scrutiny.

(4) Many complaints have been received regarding the time taken for the process involved in obtaining water licences and authorizations. In some cases there have been delays because of uncertainty on the part of operators about exactly what was required of them, and misunderstandings have arisen concerning the time-frame involved which has resulted in delays in starting production. For example, Queenstake Resources first applied to use water in 1979, and more than three years later their licence was finally issued. A draft licence has only recently been issued for the Whitehorse sewage treatment plant, nearly ten years after the application was first

made. Similar problems have been encountered by hard-rock mines as well as many other placer operations.

To overcome these difficulties there should be time-limits placed on each step of the licensing and authorization procedures, just as there are for applications for land-use permits issued under the Territorial Lands Act. There should be limits placed on the time allowed for each of the following procedures:

(a) the Board or Controller to notify an applicant whether or not his application will be accepted as complete;

(b) the assessment of an application before a public hearing is held for a licence or an authorization is issued;

(c) the drafting, approval and issuing of a licence.

In addition, if an application for a licence or authorization is rejected as incomplete the applicant must be notified within a specific period exactly what further information is required to make the application complete.

(5) The Act authorizes the Water Boards to attach to a licence any terms it considers appropriate, based upon water quality standards prescribed by regulations, relating to the quantities and types of waste which may be deposited in waters. It has been suggested that since no such regulations have been made, in applying conditions relating to water quality standards to water licences the Water Boards are acting outside the law. Having such quality standards defined in Regulations would legitimize the setting of licence conditions, and would ensure that operators meeting the water quality standards are also in compliance with the Fisheries Act.

Until such time as such regulations are in place the Board and the Controller should confine themselves to setting conditions for settling ponds and water recycling in order that suspended solids may be reduced as much as is practically and economically feasible.

CONDITIONS OF WATER AUTHORIZATIONS ("GUIDELINES")

Position

THE YUKON GOVERNMENT CONTENDS THAT THE CONDITIONS WHICH THE FEDERAL GOVERNMENT PROPOSES TO APPLY TO WATER AUTHORIZATIONS, AS OUTLINED IN THE NEW "GUIDELINES", ARE MUCH TOO ONEROUS SINCE THEY WOULD ARBITRARILY MAKE MANY OPERATIONS UNECONOMIC. NEW GUIDELINES SHOULD BE DRAWN UP BY THE WATER BOARD AFTER A CONSENSUS HAS BEEN REACHED AMONG THE FEDERAL AND YUKON GOVERNMENTS AND THE INDUSTRY AS TO WHAT REQUIREMENTS MAY REASONABLY BE EXPECTED OF PLACER MINERS.

Discussion

The two reports entitled "Socioeconomic Impact Analysis for Yukon Placer Mining Guidelines" and "Benefit-Cost Analysis of the Proposed Yukon Placer Mining Guidelines" both employ several dubious assumptions and methods which cast doubts on the validity of the conclusions drawn, and therefore severely limit their usefulness in evaluating the potential social and economic impacts of implementing the proposed guidelines. However, taken at face value, the conclusions drawn by these reports is that under most scenarios the costs to the economy of implementing the proposed guidelines greatly exceed the potential benefits by way of increased fisheries productivity.

The Yukon Government finds several aspects of the proposed new Guidelines to be completely unacceptable, as follows:

(1) The Fisheries Classification Rationale

The proposed classification rationale is supposedly set out in accordance with the habitat protection policy of the Department of Fisheries and Oceans, which calls for "no net loss of fish and fish habitat required to maintain Canada's economically and socially important fisheries resources". Unfortunately the proposed classification system is based on a biological rationale, such as methods of spawning and life-cycle sensitivities, i.e. it is established on a habitat quality basis rather than on a population-size basis. This makes very practical sense for someone trying to manage fish in isolation from other resource issues.

Unfortunately such a scheme is not a good management-oriented rationale; is too broad and general and does not provide the necessary information needed to meet the "no net loss" policy because it does not take into account the relative social and economic importance of the fish habitats under examination.

As far as the placer mining/fish conflict is concerned, economic and social tradeoffs must be made, and consequently the economic and social importance of fish and fish habitat must form an integral part of the policies and subsequent tradeoffs and compromises. If placer mining guidelines are to operate effectively fisheries managers must take the first step by applying some order of ranking for different areas; it is inconceivable that all of the higher-category streams as defined by the proposed classification scheme will have equal rankings in terms of social and economic importance. The onus should be placed upon the government to demonstrate the social and economic importance of the fish, and therefore that the habitat needs a certain degree of protection.

To be meaningful any classification scheme must be based upon stream productivity and upon the social and economic importance of the fish supported by a given habitat, in order to enable a proper determination of the environmental protection measures required in accordance with the competing resource values present. The areas of very high and very low importance to fish could be identified without too much difficulty, particularly if the appropriate resources are allotted to the resource management agencies. This kind of information is essential to sound management of all publicly-owned resources, be they fish or minerals, regardless of this particular conflict. If this information were available, then the real purpose of the guidelines would be to address those few areas where compromise and trade-off really have to be made.

The Yukon government believes the approach taken during the formulation of the 1979 proposed interim Guidelines to be much more equitable and rational. Those few streams which are determined to be critical for the maintenance of fish stocks should be given maximum protection, while certain other streams ("designated streams") should be given over entirely to placer mining and given

minimum protection in accordance with the quality of downstream receiving waters. Remaining streams should receive a degree of protection that reflects the competing values present, determined on a stream-by-stream basis.

(2) Opportunity to Challenge Classification

It is proposed that in order to challenge the classification assigned by DFO personnel, operators would have to carry out detailed resource inventories and environmental studies. The Yukon government feels that this is unreasonable for three reasons.

First, the onus is being shifted from the responsible management agency to the individual operator on an assumption from the outset that renewable resource values are more important than non-renewable resource values. This is fair enough from the perspective of a protective enforcement agency, but it is not a sound basis for the integrated management of public resources, which is the alleged purpose of the guidelines. It is also contrary to the normal rule of law which places the onus on government to prove that the law has been or is likely to be broken. It is rather like the operator being presumed guilty until proven innocent.

Second, while large companies may have the financial capability to carry out such studies this work would almost certainly be beyond the capability of of most smaller placer operators. Hence large companies would be placed in a position whereby they might reduce or eliminate competition from the smaller operators.

Third, the challenges, if they come, will be sporadic, and will lead to a patch-work information base, which essentially constitutes a reactive rather than a positive pro-active approach to resource management. DFO indicates that it "intends to justify all changes in classifications in a manner similar to that required of the placer operator". On the face of it this might seem quite reasonable, but DFO has far more resources which it can apply to this, using the public purse, than does the individual miner.

The classification system and the opportunity to challenge it would be reasonable if a really thorough job had been done first

time around on the classification system. The question remains as to whether the classification system which has evolved so far is anywhere near thorough enough to justify the "challenge" opportunities incorporated in this section of the guidelines. From the perspective of a renewable resource management agency, the approach set out in Section 5 seems quite reasonable. However, from the perspective of the placer miner or from the perspective of a sound approach to integrated or co-operative resource management, far better information will be required of the senior government agencies if the "challenge" system is to be equitable. A mechanism for assessing objectively both renewable and non-renewable resource values present prior to reclassification must be developed.

(3) Leave strips.

In many cases the requirement for leave strips will substantially reduce the mineral reserves that can be mined. On some properties this will be a large enough proportion of the total resource present to render mining uneconomic altogether, and the operator will either be forced to cease production or else will be prevented from starting up in the first place. A vegetated leave--strip thirty meters wide to be left intact on each side of the stream would, for all practical purposes, eliminate placer mining in all narrow valleys and on meandering streams. Placer mining simply becomes prohibited in certain areas through this form of zoning. In these situations, where a leave-strip requirement precludes a total area, site-specific information is required. Gold-bearing gravel is likely to be lying close to the existing stream, and there is clearly a direct conflict that has to be resolved by policy rather than at a strictly technical level. A further qualification here is the existence of vegetation already. Obviously a leave-strip is somewhat academic where virtually no vegetation exists.

Point 5 on the use of equipment within the wetted perimeter of a stream, is again extremely difficult with respect to placer mining operations. A guideline of this type may well have to be addressed through the time-zoning concept, whereby a valley is

designated for placer mining for a set time with the strongest possible provision to ensure proper rehabilitation at the end of that time period. The leave-strip approach and prohibition of vehicle use in streams will automatically preclude certain areas from placer mining; any such exclusion should be based on the relative resource values rather than on an attempt to achieve a compromise where a compromise just isn't possible.

(4) Phase-out of "Designated Creeks"

The guidelines introduce an objective of having the designated creeks progressively rehabilitated by current operators, so that this category would be phased out altogether. Under this proposal there would no longer be any creeks on which placer mining would be given priority by reason of long-standing use. Quite apart from the inequity of requiring current operators to repair the effects of many decades of previous mining activity, it must be remembered that the Klondike gold-fields are Yukon's principle tourist attraction and a vital part of our heritage. Every year thousands of people from around the world come to see for themselves the results of that most colourful period in Canadian history, and nothing must be done which will reduce the tourist value of these creeks. The priority of placer mining on certain creeks must be maintained in recognition of the fundamental and important role that placer mining has played, and will continue to play, in the economic, social and political development of Yukon, and no effort to restore historic mine workings to natural conditions should be made.

(5) The Proposed Effluent Standards.

On page nine of the guidelines DIAND has suggested the introduction of integrated resource management which takes into account provision for mitigative measures, with mitigative measures being defined on page ten as "any reasonable, attainable and cost-effective method of minimizing serious environmental degradation". The Yukon government considers that the proposed standards are not reasonable because they cannot be scientifically substantiated, and

are attainable only at extreme cost, i.e. are definitely not cost-effective.

There would appear to be very little scientific basis for the recommendation by the Department of Fisheries and Oceans that standards be set at 100 mg/L and 1000 mg/L above background; these quantities would appear to be arbitrary values based upon studies of southern species in southern waters. Recent studies on the effects of suspended sediment on grayling carried out under the Yukon River Basin Study have shown that even with sediment loads as high as 120,000 mg/L fish mortality after five days was comparatively low. Certainly there is no evidence that intermittent high levels of suspended sediment cause any permanent damage to fish habitat or any permanent reduction of fish populations. While the technology exists to meet any effluent standard which may be set, the methods and technology which will actually be used naturally depend upon their cost, and it would appear to be uneconomic for most operators to meet the proposed standards.

The report of the Technical Workshop on Suspended Solids and the Aquatic Environment concluded that there are not enough data to allow the setting of meaningful uniform effluent standards, hence uniform standards are not considered appropriate. Instead a flexible method should be formulated for determining an individual effluent requirement for each operation in accordance with the maintenance of the quality of downstream receiving waters, as prescribed by the water quality standards set out in the Regulations.

(6) Provision of fish passage.

It is proposed that fish passage would be required for most streams with resident fish populations. This is particularly unreasonable where fish passage has been specified for diversion channels constructed along valley walls, with resulting potential for instability and flooding. In most cases the cost of constructing such a facility is outrageously high in relation to the value of the fish and fish habitat present in the stream. For example, Queenstake Resources was required to spend over $300,000 to

provide fish passage to protect a population estimated at 100 grayling.

(7) Compliance Schedule

Regardless of the actual guidelines that eventually emerge, the compliance schedule is the area that offers plenty of flexibility for compromise to permit small-scale operators to gradually meet guidelines. The proposed schedule focuses more on the requirements of the government agencies and the environment rather than on the economic realities for the placer mining operator. Even if guidelines evolve that are more acceptable to the placer mining industry, a compliance schedule that takes into account the realities of their operations will be required, and this may well be a fruitful area for negotiations and compromise between the mining operator and regulatory agency.

PART TWO - RENEWABLE RESOURCES CONTRIBUTION

A PERSPECTIVE OF FISHERIES MANAGEMENT IN YUKON

Position

THE YUKON GOVERNMENT STRONGLY SUPPORTS POSITIVE FISHERIES MANAGEMENT MEASURES TO MAINTAIN AND ENHANCE FISH STOCKS FOR THE BENEFIT OF RECREATIONAL, COMMERCIAL AND NATIVE FISHERMEN IN YUKON. THE DEPARTMENT OF RENEWABLE RESOURCES WILL CO-OPERATE WITH THE DEPARTMENT OF FISHERIES AND OCEANS IN USING THE RESOURCES OF BOTH GOVERNMENTS FOR THE MANAGEMENT OF THE FISHERIES RESOURCE IN YUKON.

Discussion

A primary objective of the Yukon government is to assume the responsibility for fresh-water fisheries management, and for some years has expressed a wish to co-operate fully with the federal government in fisheries management matters. The Department of Renewable Resources acknowledges the complexity of the salmon fishery because of its international implications, and will continue to co-operate with the federal government in its management of that resource.

In supporting a positive approach to fisheries management the Department of Renewable Resources emphasizes the need for a focus on fisheries management aimed at making the best use of management resources in the best interest of fish stocks and their users. It is our contention that the heavy focus on placer mining at this time has given a distorted perspective on the relationship between the placer mining industry and the effects of that industry on fish habitat and has obscured the real fisheries management needs of Yukon.

A study undertaken jointly for the federal and Yukon governments in 1981 ("The Yukon Sports Fishery, A Policy-oriented Assessment of Sports Fishing in Yukon" by Howard Paish and Associates Ltd.) demonstrated the need for a positive sport fish management program, and demonstrated that the costs of such a program would be relatively small in relation to the importance of sport fish to Yukon residents and to the Yukon tourist economy. The report recommended that far better information be obtained on the productive capacity of Yukon lakes and streams, and on the actual

use being made of fish resources by anglers. The report indicated that the actual use of fish resources was exceeding the natural productive capacity of Yukon lakes, and that the sports fishery, particularly for Lake Trout, was probably declining. The report also indicated that a better understanding of the impact of anglers on sport fish stocks should have a very high priority and that, apart from spot problems, habitat issues were less important than user impacts at the present time.

The Department of Fisheries and Oceans accepted the findings of the report, and is already in the second year of a modest program of implementing its recommendations. Furthermore, the findings of the report have been the main substantiation for requests by DFO for a stepped-up level of fresh-water fisheries management in Yukon. The Department of Renewable Resources has also endorsed that report and supports the moves that DFO is making to step up its fresh-water fish management programs in Yukon. However, we are disturbed that DFO is focusing so much of its attention on one specific habitat issue - placer mining.

The best current information on the actual extent of placer claims and prospecting leases indicates that there were about 4,200 km of claims and leases in Yukon at the end of 1982. The actual length of claims, which represents the ground that can actually be mined, reached a peak of about 1,700 km towards the end of 1982. By way of comparison, using the same kind of criteria that DFO has used in preparing the stream classification maps which accompany the Guidelines we have calculated the length of streams that could reasonably be expected to support fish, and find the following:

- For the Dawson map-area - 4,102 km of stream.
- For the Mayo map-area - 2,344 km of stream.
- For the McQuesten map-area - 5,657 km of stream.

Thus there is a total of about 12,100 km of fish-bearing stream in the Dawson-Mayo area alone. We have not attempted to calculate the total length of <u>all</u> fish-bearing streams in Yukon, but suggest on the basis of these three map-areas that the total figure is about 200,000 - 250,000 km.

We present these figures to provide a perspective of the actual proportion of streams that are or could be directly affected by existing

placer operations in relation to the total length of streams that could be of interest to DFO. We fully acknowledge that the effects of placer mining are not restricted to the actual lengths of streams covered by placer claims; some of the problems associated with placer mining involve transport of sediments downstream and impediments to the migration of fish between different portions of river and stream systems. We also acknowledge that any guidelines must take into account the possible future growth of the placer industry into new areas, and also the importance of areas that have not yet been affected by placer mining.

Recognizing the limitations of using a straight number comparison, we suggest that the relative lengths of stream involved - approximately 1,700 km of stream affected by placer mining in the entire Yukon vs. an estimate of between 200,000 and 250,000 km of fish-bearing river and stream for the entire Yukon, should influence the priorities for habitat management for the Department of Fisheries and Oceans. That Department's own information, particularly the 1975 and 1980 National Sport Fishing Surveys, show a low priority both in terms of angler interest and in terms of actual sport fish production and use for the Dawson-Mayo area. For example, none of the lakes in the area (not even Mayo Lake) fell within the top 50 lakes of interest to resident or non-resident anglers in the 1980 Survey.

We would like to suggest that if the manpower, energy and DFO resources that have been devoted to the placer mining issue had been devoted instead to addressing the very programs that DFO is right now trying to obtain support for from Treasury Board, for the positive management of the fisheries in the interests of all Yukoners and visitors, far more positive achievements could have been accomplished.

We acknowledge that the Department of Fisheries and Oceans has a mandate to maintain fish habitat. At the same time, we suggest that DFO should have a better sense of perspective in addressing habitat issues and concentrate its efforts on those fishery management matters that are of real importance to the fish resources and the users of those resources, rather than simply operate within a purely legalistic interpretation of the Fisheries Act when setting its priorities.

MULTIPLE RESOURCE USES

Position

IN DEVELOPING PLACER MINING GUIDELINES THAT ARE IN KEEPING WITH THE CONCEPT OF MULTIPLE RESOURCE USE, THE FEDERAL GOVERNMENT MUST CONSIDER OTHER RESOURCES AND RESOURCE USES RATHER THAN CONCENTRATE SOLELY ON FISHERIES AS THE PROPOSED GUIDELINES DO.

Discussion

In addressing the placer mining/renewable resources issue almost entirely through a fisheries approach the guidelines really do not accommodate multiple resource management. The potential coordination between fisheries, wildlife, vegetation, downstream users, planned water use, etc. is important, regardless of placer mining. This department feels that it is essential to incorporate placer mining into the whole resource planning and management perspective, rather than try to achieve integrated resource planning and management through attempts to regulate one particular set of industry-renewable resource relationships. For this reason, the current hurry to produce guidelines is premature, particularly since a number of initiatives are already underway that will see major changes in the way in which natural resource planning and management is carried out in Yukon.

The Department of Renewable Resources has direct responsibility for the management of wildlife populations and for the management of Territorial parks and outdoor recreation. These resources relate directly to the interest of Yukoners in outdoor recreation, and contribute directly to tourism. Further, the Department of Renewable Resources has the responsibility for renewable resource planning initiatives by the Yukon Government and for cooperation with the Federal Government in joint Renewable Resources Planning Programs. If these resources and initiatives of key interest to the Yukon Government have been left out of the present guideline process in order to meet an arbitrary deadline to deal with the more specific fisheries issue, then an integrated approach to resource management for the Territory is really being circumvented.

The impending land claim settlement, the initiation of a Northern Land Use Planning process, and even the likely short term potential for

new information becoming available through the Yukon River Basin Study should all have a bearing on resource planning for the Territory. It is within this broader perspective that the regulation of placer mining has to be considered.

INTEGRATED RESOURCE PLANNING AND MANAGEMENT IN YUKON

Position

INTEGRATED RESOURCE PLANNING SHOULD FORM THE BASIS FOR DECISION-MAKING REGARDING RESOURCE ALLOCATION, MANAGEMENT AND USE WITHIN YUKON. THE PROBLEMS BEING ADDRESSED THROUGH THE PROPOSED PLACER MINING GUIDELINES SHOULD BE ADDRESSED THROUGH A COMPREHENSIVE LAND, WATER AND RESOURCE USE PLANNING PROCESS, WITH AN EMPHASIS ON FUTURE OPPORTUNITIES AND NOT ON THE PROBLEMS OF THE PAST.

Discussion

So far, the Placer Mining/Renewable Resource issue seems to have revolved around legacy problems, and the guidelines reflect this. But past decisions reflected the economic and social conditions of the times in which they were made. Any realistic approach to resource planning must acknowledge that some tough decisions will have to be made from both sides on the compromises that will have to be made to resolve those legacy problems. An objective of this department, however, is to ensure that we learn from our past mistakes, and do not rely solely on trying to resolve the problems that we and our forebears have created for us over the past 80 years, in trying to resolve the <u>future</u> for both Placer Mining and Renewable Resource Management and Use in Yukon.

The Federal and Yukon Governments are at present negotiating a comprehensive land-use planning program that will address the kind of resource allocation and land-use conflicts that the proposed Yukon Placer Mining Guidelines set out to resolve. The framework for the proposed program recognizes the interests and mandates of both governments and all people in Yukon, with clear provisions for ensuring that the land-use planning process in in lock-step with an eventual land claims settlement. This department feels that issues such as the conflict over the placer mining guidelines can be best resolved within the framework of such a comprehensive approach to resource use planning.

This department believes that the commitments already made by both governments towards a better level of integrated resource planning and management for Yukon will lead to a far better solution to the conflicts between placer mining and other resource uses than the guidelines.

With potential resolution of land claims and a far more comprehensive land use planning framework for Yukon, the proposed guidelines are premature, and are somewhat at odds with the Federal Government's stated commitment to:

> "the principle of integrated resource management as an objective to be attained through an ongoing process of resource evaluation (renewable and mineral), determination of significant environmental impacts, development planning, provision of mitigative measures and rehabilitation."

The Department of Renewable Resources urges that this approach to natural resource planning and management be given a chance.

The Government of Yukon is not so naive as to believe that resource planning alone is going to provide automatic answers. An agreement on a comprehensive approach to land use planning for Yukon is currently under negotiation. This agreement will provide substance to the integrated resource management proposals which the three federal departments have alluded to in the guidelines.

This department is satisfied that a reconciliation can, and must, be reached between the renewable and non-renewable resource interests that appear to be set against one another in the current concern over placer mining regulation. The employment and economic benefits from placer mining and the recreational, cultural and economic benefits from fisheries and other renewable resource uses are both important to Yukon, and we cannot look at an either/or situation that has to settle for one of the extremes.

The Yukon Government acknowledges the value of "guidelines" in dealing with many of the habitat-use conflicts posed by development near water-courses and development on lands that are important to wildlife, parks, recreation and other renewable resources of direct interest to Yukoners. For the most part activities such as placer mining, road construction, forestry, etc. do not lend themselves to simple regulation. This is particularly so when statutes such as the Fisheries Act overlap with other legislation in habitat protection and management provisions.

It is our understanding that through a dialogue among different resource user groups and government agencies, guidelines have been developed in the Pacific Region of Department of Fisheries and Oceans to

cover a number of potentially conflicting areas. Many of these guidelines may be far from perfect, but they have gone a long way towards eliminating the kind of confrontation that is surrounding the introduction of these placer mining guidelines.

Choices have to be made between differing resources in the best interest of all Yukoners. It is this department's contention that the present guidelines do not provide a satisfactory framework within which rational allocation decisions can be made. The guidelines appear to set out to protect virtually every bit of fish habitat that is not on a designated stream, with inadequate attention being given to the real value of that habitat to fish and consequently its value to society. This seems at odds with the Department of Fisheries and Oceans' policy of "no net loss of fish and fish habitat required to maintain Canada's economically and socially important fish resources". It is surely the responsibility of the Department of Fisheries and Oceans to identify clearly and rationally where those socially and economically important fish resources lie. This department is as interested as the Government of Canada in ensuring that fish resources that are of social and economic importance to Yukon along with wildlife and other renewable resource values are maintained. But does this have to be at the expense of the viability of the placer mining industry?

We hope that this inquiry will provide an opportunity for a far better dialogue among the different resource users and different government departments in order to arrive at workable guidelines for placer mining in Yukon. We suggest, however, that the methods used to draw up these particular proposed guidelines have created such a conflict that everyone is suspicious of everyone else's information. The conflict probably arises from the fact that the guidelines have set out a lot of detail "early in the game". There is a natural and understandable assumption that if the agencies who have drawn up guidelines have gone to this degree of detail then they must be serious about implementation of the guidelines that have been developed.

Spokesmen for the groups that oppose the guidelines have acknowledged that placer mining should operate in a way that ensures the well-being of other legitimate resource interests. The proponents of the guidelines have acknowledged the importance of placer mining to the

Yukon economy. Unfortunately the criticism of the guidelines to date has focused on the difference between the resource interests, rather than on the opportunities for reconciliation that exist. There is room for a compromise, and there must now be a genuine attempt to produce realistic and workable guidelines that recognize the importance of the placer mining industry and at the same time formally acknowledge the legitimacy of other resource interests. The guidelines should reconcile differences rather than inflame conflicts.

One problem in reconciling the differences between publicly managed resources and private resource developments is the whole concept that fish and wildlife habitat and all other environmental resources should always be considered as "free". This is at the heart of much of the disagreement over the balancing of the "economic" and "non-economic" use of resources. While many of the values attached to the non-economic resources are intangible, one can attach some price tags to them, as the socio-economic impact assessment for placer mining shows. If we are to balance private and public use of resources, the validity of expecting someone else to pay for maintaining natural resource values such as fish habitat for use by resource users who pay at best only the most nominal rent for these resources has to be questioned.

A commonly held principle is that renewable resource values are there "naturally", and that the onus should be on the developer who wishes to disturb them to prove why he should be permitted to disturb them. This concept underlines the whole guideline document. It can be argued with some logic that gold or any other industrially exploited resource (including fish) is also there as a natural resource and that the direct users, industrial or otherwise, should contribute to their management.

A large part of the problem is that in setting priorities for the protection of renewable resources, we traditionally emphasize the biological importance or value of those resources. The guideline documents do this. However, this has to be balanced against the social and economic importance of those same biological resources. The DFO stated policy on habitat protection is one of "no-net loss of fish and fish habitat required to maintain Canada's economically and socially important fisheries resources". Understandably, fisheries managers, and

indeed other renewable resource managers, traditionally place the emphasis on the "no net loss" element and a far lesser emphasis on "the economic and social importance" element.

From a pure ecosystem protection standpoint, that ignores human involvement in ecosystems, all biological values are important. However, such an approach is clearly unacceptable in trying to achieve a balance between use and protection of those resources. By taking a strong bias towards the biological aspects of resource use, renewable resource managers and the resources that they represent invariably end up being the losers, often after high profile confrontations. The track record for most renewable resource agencies and the status of so many of our at-one-time strong renewable resource bases speaks for itself.

A result of the biological bias is that a narrow interpretation of the Fisheries Act will permit virtually any water-body which supports fish at some time of the year, no matter how insignificant that fish use might be, to receive the same degree of protection as highly important fish-producing waters.

Obviously, discretion can be exercised by habitat managers in their interpretation of habitat management. However, this discretion can range all the way from a narrow legalistic interpretation, to a broader, more cooperative recognition of other resource values. This, in itself, creates problems in its application. Habitat managers are frequently accused by industry as being over-protective, while the interest groups that use the resource being protected accuse them of being too lenient on the same issue.

If placer mining guidelines are to operate effectively fisheries managers must take the first step by applying some order of ranking for different areas in terms of social and economic importance, as well as the purely biological qualities. This approach is absolutely essential, regardless of placer mining or any other potential threat to the resource. The best allocation of internal management funds really demands such an approach.

This has been done in part with respect to the guidelines, in a very preliminary way, in the initial stream classification system. Unfortunately, this is simply too broad and general and really does not take into account the full biological importance, regardless of the

social and economic importance of the fish habitat identified. It is inconceivable that all of the higher category streams will have equal rankings, regardless of placer mining, and such a "broad brush" approach really fails to address the best interests of renewable resource users, regardless of placer mining or any other development issue. It is now necessary to start looking realistically towards those areas where sound resource planning and management can achieve the best results, rather than spend all our time and effort simply trying to reconcile yesterday's legacy problems.

ESTABLISHMENT OF COMPREHENSIVE DATA-BASE

Position

AN ESSENTIAL ELEMENT OF SOUND RESOURCE PLANNING AND MANAGEMENT IS THE ESTABLISHMENT OF A GOOD DATA BASE BY THE GOVERNMENTAL AGENCIES RESPONSIBLE FOR OVERALL RESOURCE ADMINISTRATION.

Discussion

This department doubts that an adequate level of information is available for either the mining or fisheries resource sectors to support anything more than another set of interim guidelines. It is better to seek "real" guidelines that incorporate all resource interests, including those for which the Yukon Government is responsible, and have such guidelines based on the type of land-use planning that we hope will be in place in Yukon within the near future.

The biggest single obstacle appears to be level of information available on both sides. It is the contention of the Department of Renewable Resources that rather than try to introduce the current guidelines, even in a modified form, it would be far better to refine the information on mineral availability and on the social, economic and biological importance of fish and wildlife habitat. In so doing it should be possible to gain a far better understanding of the potential for cooperative resource use and approaches to habitat restoration and rehabilitation, rather than try to implement guidelines within the present aura of mistrust.

Given a little more time and some clear direction from this review panel, many of the conflicts that currently exist could be removed simply through the availability of better information. It should be incumbent upon all of the resource management agencies under both Federal and Territorial authority to outline their areas of priority in a far better manner than has been done to date. In this way the decision makers can make some choices. The Department of Indian and Northern Affairs could provide a better ranking of existing placer areas, and fisheries managers should be able to provide a far better and more specific indication of the social and economic importance of fish habitat in Yukon than that provided to date. Wildlife habitat managers

and parks and recreation managers should also be able to provide such information.

Such an approach would "design-out" many of the potential conflicts by identifying the areas of highest importance for differing resource values. The relative merits of each resource can then be assessed, and where necessary an allocation can be made. This would allow real attention to be paid to the more questionable areas, particularly those areas where new placer developments are proposed in watersheds that have not hitherto been subjected to placer mining activity.

The proposed guidelines state that resource evaluation is required for assessment of both mineral resources and biological and related environmental resource prior to mining. They further state that "in the absence of hard information, the onus may be on the developer or his agent to supply it according to guidelines provided by government". The Department of Renewable Resources contends that there should be a sound base-line level of information available from government sources.

In the proposed guidelines the federal government is proposing a complete resource evaluation requiring assessment of mineral reserves and biological and related environmental values and determination of significant environmental impacts. These are necessary objectives for large projects with large potential impacts. If a project is large enough that the potential impacts will be serious enough to cause concern, then that project can be evaluated by the Regional Environmental Review Committee which has been set up for the purpose, and can be required to apply for a water licence. Such a comprehensive resource evaluation and environmental impact analysis is hardly appropriate when dealing with the majority of small placer operations applying for authorizations, since the majority have small potential impacts. Most small operators would not even have the financial or technical capability to carry out such assessments.

This agency supports the principle of the preparation of a development plan by the proponent. However, a balance has to be struck between the level of effort required by an individual entrepreneur in developing a plan, and the benefits that will accrue to overall resource management from that plan.

The Federal Government agencies have suggested that they will follow an integrated resource management approach and this department supports the concept. However, it is unreasonable to expect this senior level of planning to be dependent, in part, on the patch-work of individual plans carried out by individual entrepreneurs - in this case placer miners. Any detailed plans of the type suggested here must fit into some well-developed overall strategic planning framework. Such a framework should be providing the essential base-line information alluded to earlier - an identification of the most important mineral areas, identification of the relative, economic and social value of different renewable resource areas, etc. If this information is available, then the preparation of the individual development plans becomes far simpler. And that, in part, addresses some of the criticism leveled at the guidelines.

From the standpoint of the management agencies concerned, particularly with respect to the validity and use of technical data, shortcomings are bound to result from putting together a fragmented patch-work of isolated pieces of information gathered by different groups or individuals. Those who object to the guidelines question whether the private sector should be doing government's business for them, but every bit as important is the question as to whether or not government is truly accepting its responsibilities as custodians of resources on behalf of the people, by being dependent on this fragmented approach to resource management.

The best solution lies in the agencies responsible for water resources, mining, fisheries, wildlife, and all other resources, doing their homework properly, and having basic information available for use in the preparation of development plans.

Through this approach, the individual operator or company can then deal with his particular development plans within the context of the broad public resource interest. Such an approach forms the basis for a compromise between the level of detail suggested in the guidelines and the responsibility that a user of public resources should have to the owners of those resources and the governments that administer them.

ONE-WINDOW APPROACH TO ADMINISTRATION OF PLACER MINING

Position

THERE SHOULD BE A SINGLE UNIT OF GOVERNMENT RESPONSIBLE FOR THE ADMINISTRATION OF THE PLACER MINING INDUSTRY.

Discussion

The "one window" approach proposed by the federal government makes good sense, because it simplifies the regulatory approvals needed by the placer miners. In particular, the industry sees needless duplication of government effort when officials from the Water Resources Section of DIAND inspect operations for compliance with the conditions of their licence or authorization and officials from the Department of Fisheries and Oceans inspect operations to ensure compliance with the Fisheries Act. Furthermore, if there are any problems with the staking or recording of claims the property must be examined by a claims inspector from the Mining Recorder's Office.

It is the position of the Yukon Government that there should be a single arm of government responsible for the administration and inspection of all aspects of the placer mining industry in Yukon. However, if the best use is to be made of the one window approach, provision must be made for the incorporation of Yukon Government responsibilities in the areas of wildlife management, parks and outdoor recreation. Therefore the Yukon Government would like to offer the suggestion that the Department of Energy, Mines and Resources, which has a mandate to monitor the Canadian mineral industry and which has the overall responsibility for managing oil and gas resources north of 60°, could act in an expanded role of co-ordinating the management of the placer mining industry until such time as the management and ownership of mineral resources in Yukon are transferred to the Yukon Government.